



County of Los Angeles CHIEF EXECUTIVE OFFICE

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WILLIAM T FUJIOKA
Chief Executive Officer

August 13, 2007

To: Supervisor Zev Yaroslavsky, Chairman
Supervisor Gloria Molina
Supervisor Yvonne B. Burke
Supervisor Don Knabe
Supervisor Michael D. Antonovich

From: William T Fujioka
Chief Executive Officer

Board of Supervisors
GLORIA MOLINA
First District

YVONNE B. BURKE
Second District

ZEV YAROSLAVSKY
Third District

DON KNABE
Fourth District

MICHAEL D. ANTONOVICH
Fifth District

RETROACTIVE CONTRACTS

On May 22, 2007, the Board of Supervisors approved a motion (Attachment I), prompted by recent requests by departments for Board approval on retroactive payments. The Board instructed the Chief Executive Officer (CEO), Auditor-Controller (A-C) and Director of Internal Services (ISD) to take the following actions:

1. Conduct a risk assessment within 60 days that identifies departments vulnerable to retroactive payments, review those departments' purchasing structures, and then make recommendations to improve the process;
2. Work with departments to implement the recommendations, and report back to the Board on the progress in 120 days;
3. Instruct every department and commission to submit a list of outstanding contract or purchase order payments that will require retroactive Board approval;
4. Review all retroactive contract and purchase order payments before they are submitted for Board approval, identify the circumstances leading to the violation of established procedures, and recommend best practices and corrective actions; and
5. Before the close of each fiscal year and prior to the adoption of the final County budget, provide a report to the Board identifying all retroactive and pending retroactive payments approved by the Board for each department.

Although progress has been made in lessening the incidence of retroactive payment requests, policies and procedures for avoiding this practice continue to be bypassed by

some departments. This exposes the County to liabilities over which your Board has no input or control. The following is the status on the above actions:

1. **Assessing Retroactive Risk by Department**

My staff selected two fiscal years to pinpoint the departments most vulnerable to retroactive payments. A database search of the Board of Supervisors' Statement of Proceedings and Board Correspondence via the internet identified the number of retroactive issues that appeared on the Board's agenda by fiscal year:

| DEPARTMENT | Health Services | Public Health | Mental Health | Sheriff | Total |
|------------|-----------------|---------------|---------------|---------|-------|
| FY 2005-06 | 15 | 2 | 4 | 3 | 24 |
| FY 2006-07 | 11 | 0 | 1 | 0 | 12 |

The Department of Health Services (DHS) was identified as the department most vulnerable to retroactive payments. Because of the size of the department, the number of contracts and the decentralized structure, DHS was selected as the department to begin a focused review of the authorization process related to their agreements for goods and services.

2. **Progress Report in 120 Days**

A progress report will be prepared and submitted to your Board in September 2007, documenting vulnerable departments' success in implementing the Review Committee actions (see No. 4 below for more information about the Review Committee). The Review Committee will continue to meet and identify ways to assist departments with the implementation of their recommendations and corrective actions necessary to avoid future retroactive requests for payment.

3. **Survey of Potential Retroactive Contracts and Purchase Order Payments**

On July 2, 2007, each department head was asked to provide, to the extent each was aware, a list of potential retroactive contracts or purchase orders that may occur within the next six months.

Forty departments were surveyed. Thirty-four departments responded that they did not anticipate any retroactive requests for payments. Six departments (DHS: 10, Coroner: 3, Mental Health: 2, Office of Public Safety: 1, Public Health: 1 and Sheriff: 1) anticipated that a total of 18 requests for retroactive payment could occur from July 2007 to December 2007 (Attachment II).

Each Supervisor
August 13, 2007
Page 3

4. **Review Retroactive Payment Requests Prior to Board Approval**

A committee has been established, chaired by staff from the CEO, with A-C and ISD's staff as members. This committee will review all retroactive cases before they go to your Board, and require each department to prepare a corrective action plan to be presented to your Board along with their retroactive request for approval. The first meeting is scheduled for August 15, 2007, and among the discussion items will be critical retroactive items that DHS has pending Board approval.

The Review Committee will also explore and develop a countywide strategy to avoid circumstances where departments, with large numbers of contracts with community service providers, were granted your approval and your delegated authority to enter into contract amendments with these providers; however, execution of these contract amendments was delayed while services were being provided.

Fiscal Year End Report

Prior to the close of each fiscal year and the adoption of the final County budget in September, the CEO will provide a list to your Board identifying all retroactive and pending retroactive payments that your Board approved during the fiscal year.

If you have any questions, you may call me, or Amy Bennett at (213) 974-1126.

WTF:DL:SK
EC:AB:ljp

Attachments

c: Executive Office, Board of Supervisors
Auditor-Controller
County Counsel
Director, ISD
All Department Heads

retroactive contracts.bm



MINUTES OF THE BOARD OF SUPERVISORS
COUNTY OF LOS ANGELES, STATE OF CALIFORNIA

Sachi A. Hamai, Executive Officer-
Clerk of the Board of Supervisors
383 Kenneth Hahn Hall of Administration
Los Angeles, California 90012

At its meeting held May 22, 2007, the Board took the following action:

25

The following item was called up for consideration:

The Director of Mental Health's recommendation to approve and instruct the Chairman to sign a sole-source agreement on a month-to-month basis with Mann & Associates, to provide the Department with essential professional and technical knowledge in marketing and media advertising in specialized, professional publications and newsletters for the recruitment of psychiatrists, effective upon Board approval through June 30, 2008, pending completion of a Request for Proposal process, at a total pro-rated cost of \$40,000 for Fiscal Year 2006-07 and \$150,000 for Fiscal Year 2007-08, fully funded by Sales Tax Realignment revenue; and authorize the Director to make retroactive payments in the amount of \$19,021 for professional services provided by Mann & Associates for personnel recruitment and related services.

Supervisor Molina made the following statement:

"On July 2, 2002, I authored a Board motion to eliminate retroactive payments for Board contracts. The Auditor-Controller informed me that the directives in that Board order were implemented, including a Board contract tracking system, and revised contract and purchase order language informing vendors they will not be paid for services rendered after contract expiration or termination.

"Although there has been progress in lessening the incidence of retroactive payments, today's agenda contains a request by the Department of Mental Health to approve a retroactive payment for services. I have been concerned about the number of recent requests for Board approval of retroactive payments despite clear policies and procedures for avoiding this practice. Whether mistakenly or intentionally, accountability procedures are being bypassed exposing this County to potentially large liabilities over which this Board has no input and no control other than to give its approval after-the-fact.

(Continued on Page 2)

"While we may never completely eliminate retroactive payments, we can do better through increased training, improved management and supervision, and use of discipline for employees who willfully or negligently disregard established County policy."

Therefore, Supervisor Molina made a motion that the Board take the following actions:

1. Instruct the Chief Administrative Officer, Auditor-Controller and Director of Internal Services to conduct a risk assessment within 60 days that will identify those Departments vulnerable to retroactive payments, review those Departments' purchasing structures, and make recommendations to improve their payment performance;
2. Instruct the Chief Administrative Officer to work with these Departments to implement appropriate recommendations and report back to the Board within 120 days on their progress;
3. Instruct every County Department and Commission to submit to the Chief Administrative Officer within 60 days, a list of any outstanding contract or purchase order payments that will require retroactive approval by this Board;
4. Direct the Chief Administrative Officer, in collaboration with the Auditor-Controller and Director of Internal Services to review all requests for retroactive contract and purchase order payments before they are submitted for Board approval, notify Department Heads and the Board of the circumstances leading to the violation of established procedures, and recommend corrective actions along with best practices; and
5. Instruct the Chief Administrative Officer, before the close of each fiscal year and prior to the adoption of the final County budget, to provide a report to the Board of all retroactive payments approved by the Board for each Department and all pending retroactive payments for each County Department.

(Continued on Page 3)

25 (Continued)

After discussion, the Chairman ordered a division of the question.

On motion of Supervisor Molina, seconded by Supervisor Knabe, Supervisor Molina's aforementioned motion was unanimously carried.

The Director of Mental Health's attached recommendations were duly carried by the following vote: Ayes: Supervisors Burke, Knabe, Antonovich and Yaroslavsky; Noes: Supervisor Molina.

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Attachment

Copies distributed:

Each Supervisor

All Department/District Heads

and appropriate Commissions

ATTACHMENT II

**CHIEF EXECUTIVE OFFICE
RETROACTIVE CONTRACTS
RECAP OF SURVEY**

| DEPARTMENT | | ANTICIPATED RETROACTIVE PAYMENTS JULY 2007 DECEMBER 2007 |
|------------|--|--|
| 1 | Affirmative Action Compliance | 0 |
| 2 | Agricultural Commissioner/Weights & Measures | 0 |
| 3 | Alternate Public Defender | 0 |
| 4 | Animal Care & Control | 0 |
| 5 | Assessor | 0 |
| 6 | Auditor Controller | 0 |
| 7 | Beaches and Harbors | 0 |
| 8 | Board of Supervisors - Executive Office | 0 |
| 9 | Chief Executive Office | 0 |
| 10 | Chief Information Office | 0 |
| 11 | Child Support Services | 0 |
| 12 | Children & Family Services | 0 |
| 13 | Children's Planning Council | 0 |
| 14 | Community & Senior Services | 0 |
| 15 | Consumer Affairs | 0 |
| 16 | Coroner | 3 |
| 17 | County Counsel | 0 |
| 18 | District Attorney | 0 |
| 19 | Fire | 0 |
| 20 | Health Services | 10 |
| 21 | Human Relations Commission | 0 |
| 22 | Human Resources | 0 |
| 23 | Internal Services Department | 0 |
| 24 | Mental Health | 2 |
| 25 | Military & Veterans Affairs | 0 |
| 26 | Museum of Art | 0 |
| 27 | Museum of Natural History | 0 |
| 28 | Office of Public Safety | 1 |
| 29 | Ombudsman | 0 |
| 30 | Parks & Recreation | 0 |
| 31 | Probation Department | 0 |
| 32 | Public Defender | 0 |
| 33 | Public Health | 1 |
| 34 | Public Library | 0 |
| 35 | Public Social Services | 0 |
| 36 | Public Works | 0 |
| 37 | Regional Planning | 0 |
| 38 | Registrar-Recorder | 0 |
| 39 | Sheriff | 1 |
| 40 | Treasurer & Tax Collector | 0 |

TOTAL RETROACTIVE REQUESTS ANTICIPATED

18